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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,621	07/13/2006	Peter Rohrig	CU-4725 RJS	4323
26530 7590 09/30/2009 LADAS & PARRY LLP 224 SOUTH MICHIGAN AVENUE SUITE 1600 CHICAGO, IL 60604				
EXAMINER WEAVER, SUE A				
ART UNIT		PAPER NUMBER		
3781				
MAIL DATE		DELIVERY MODE		
09/30/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/576,621

**Applicant(s)**

ROHRIG, PETER

**Examiner**

Sue A. Weaver

**Art Unit**

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 April 2006.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-31 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 21 April 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-854)  
Paper No(s)/Mail Date 8/15/06, 3/14/08, 9/9/09  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc. The abstract of the disclosure is objected to because of the use of legal phraseology and also text appears to be missing after "said" on line 4. Correction is required. See MPEP § 608.01(b).

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the sectional view must be cross hatched to reflect the materials claimed in claims 27-31 and the mold and method of injection molding claimed in claims 29-31 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### **INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

#### **Replacement Drawing Sheets**

Drawing changes must be made by presenting replacement sheets which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments section, or remarks, section of the amendment paper. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). A replacement sheet must include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and within the top margin.

#### **Annotated Drawing Sheets**

A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be submitted or required by the examiner. The annotated drawing sheet(s) must be clearly labeled as "Annotated Sheet" and must be presented in the amendment or remarks section that explains the change(s) to the drawings.

#### **Timing of Corrections**

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.85(a). Failure to take corrective action within the set period will result in ABANDONMENT of the application.

If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings MUST be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 1 recites the limitation "the opposite teat side end region" in line 5. There is insufficient antecedent basis for this limitation in the claim. Applicant sets forth a jacket open on both sides but fails to relate the end regions to the open sides leading to confusion since liner bottles also have opening on the sides as well as the ends.

6. The claim for "a teat side end region is a double inclusion of that on line 5.

7. Claim 2 recites "the two open ends" in the last line. There is insufficient antecedent basis for this limitation in the claim.

8. The claim for "a base cap" in line 4 is a double inclusion of that claimed in claim 1.

9. Claim 23 recites the limitation "the flatter sides of the nipple" in the last line. There is insufficient antecedent basis for this limitation in the claim.

10. Regarding claim 28, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

11. In claims 29-31 it isn't clear what applicant intends to claim, a process or a product. Applicant is advised that there is no such statutory class as "process by product".

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 1,2, 4-6, 13-16,26 and 28, insofar as they are definite are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez '921 in view of Renz '228.

14. Rodriguez teaches a bottle open at both ends and having threads to receive a sleeve cap to hold the teat and a base cap with an air intake valve, as claimed. Note that the base end is larger than the teat end. To have formed the teat or nipple with a greater thickness in the shaft to simulate natural nursing in the manner of Renz would have been obvious.

15. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 2 above, and further in view of Barr '983.

16. To have extended the flange of the nipple to be fixed between the sleeve cap and bottle would have been obvious in view of Barr.

17. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 5 above, and further in view of Sidi et al GB ;729.

18. To have formed the diaphragm ring shaped would have been obvious in view of Sidi et al.

19. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1 and 5 above, and further in view of Greenwood et al '729, cited by applicant.

20. To have formed the bottom vent in the manner of Greenwood et al for improved venting would have been obvious.

21. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim14 above, and further in view of Barr et al '569.

To have provided the nipple with ribs to prevent nipple collapse would have been obvious in view of Barr et al.

22. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Sakashita '938.

To have designed the nipple with the shape of Sakashita would have been obvious.

23. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Gu '323.

To have formed the nipple of a TPE in the manner of Gu would have been obvious.

24. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Randolph '121.

To have formed the teat of a silicone with a textured surface in the manner of Randolph would have been obvious

25. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 29 above, and further in view of Brown et al '801.

To the extent that applicant shows any mold, to have made the molded bottle of a frustoconical shape in the manner of Brown et al in Figure 16 would have been obvious.

26. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 29 above, and further in view of Ida et al '850.

To have molded the bottle from a transparent polypropylene would have been obvious in view of Ida et al.

27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents show other bottles and nipples.

28. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**



I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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### **Certificate of Transmission**

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. ( ) \_\_\_\_\_ - \_\_\_\_\_ on \_\_\_\_\_.  
(Date)

Typed or printed name of person signing this certificate:

\_\_\_\_\_

Signature: \_\_\_\_\_

Registration Number: \_\_\_\_\_

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is (571) 272-4548. The examiner can normally be reached on Tuesday-Friday (5:30-4).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor is Anthony Slashick\_. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sue A. Weaver/  
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